REMARKS

Claims 7-13 are pending. Claims 7-13 have been rejected. The applicant respectfully disagrees for the reasons set forth below.

Rejection under 35 U.S.C. § 112

The Office Action rejects claim 8 for lack of antecedent basis. Claim 8 has been amended to recite "an endoluminal device," as suggested by the Office Action. Claims 9-11 have also been amended to claim an endoluminal device for consistency, also as suggested by the Office Action. Accordingly, the applicants respectfully request that this rejection be withdrawn.

Double Patenting Rejection

The Office Action rejects claims 7, 9, 10, 12, and 13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over selected claims of U.S. Patent No. 6,238,432. A Terminal Disclaimer is enclosed to overcome this rejection.

Rejection under 35 U.S.C. § 102

The Office Action rejects claims 7-9 and 11-13 under 35 U.S.C. § 102(b) as being anticipated by Martin (U.S. Patent Application No. 5,575,817) and rejects claims 7-13 under 35 U.S.C. § 102(e) as being anticipated by Kugler et al. (U.S. Patent No. 6,129,756). The applicant respectfully disagrees.

Claim 7 recites "an endoluminal device for deployment within a first lumen comprising *a restricted section* having . . . an inner diameter . . ., the restricted section inner diameter being smaller than a sum of the branch lumen inner diameters." Similarly, claim 12 recites the step of "identifying a first lumen comprising *a restricted section* having an . . . inner surface diameter . . . smaller than the sum of the branch lumen inner surface diameters." Likewise, claim 13 recites "[a]n endoluminal device for deployment within a first lumen having *a restricted section with a diameter* . . . wherein each of said first and second tubular limbs comprises: (i) an elongated portion

. . . having a first diameter which is less than one-half of the restricted diameter [and] (ii) a distal end portion . . . defining a second diameter larger than the first diameter and greater than one-half of the restricted diameter; ." Thus, structural dimensions relative to and deployment within a restricted section of the lumen are important, claimed features of the invention.

Neither Martin nor Kugler show or describe the claimed structural dimensions relative to such a restricted section. Martin, while showing in Fig. 4 what could arguably considered to be a restricted section above iliac artery 21 and contralateral artery 24, does not discuss any dimensions of this restricted section relative to lower limb 4 and lower portion of second section 2 of the graft. Furthermore, close inspection of Fig. 4 shows that at no point does the arguable restriction have a diameter that is smaller than the sum of the diameters of the distal ends of the graft.

The diameter of the comparable portion of the lumen shown in Fig. 2 of Kugler is even greater relative to the diameters of iliac stents 22 and 32 at the distal ends of the graft than shown in Martin. Similarly, the applicant has found no suggestion or teaching that iliac stents 22 and 32 have a diameter with a particular dimension relative to any restricted section.

Quite simply, the teachings of Kugler and Martin do not focus on the same problem that is solved by the applicant's claimed device, namely providing a device for placement in a branched lumen having a restriction with a diameter that is particularly small relative to the branch lumen. Accordingly, the cited references fail to teach or suggest each and every limitation of the applicant's invention as recited in claims 7, 12 and 13, and these claims should be allowed. Each of dependent claims 8-11 should be allowed at least as being dependent upon an allowable base claim.

Conclusions

For all of the above reasons, the rejections under 35 U.S.C. §§ 102 and 112 should all be withdrawn. Favorable action is earnestly solicited. The Examiner is invited to call the applicants' undersigned representative if any further amendment will

expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason, the applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully Submitted,

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Enclosures: Version with markings to show changes made
Terminal Disclaimer

Dated: September 16, 2002

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The Assistant Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

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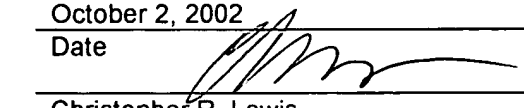

Christopher R. Lewis

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE TITLE:

~~STENT GRAFT~~ ENDOLUMINAL DEVICE AND METHOD FOR ~~TREATMENT OF ABDOMINAL AORTIC ANEURYSMS~~ TREATING BRANCHED LUMEN HAVING A RESTRICTED SECTION

IN THE CLAIMS:

8. (Amended) The ~~stent graft~~ endoluminal device of claim 7, wherein the distal end portion is cylindrical.

9. (Amended) The endoluminal device of claim 7, wherein the second diameter is smaller than the branch lumen inner surface diameter and the third diameter, in an unconfined state, is larger than the branch lumen inner surface diameter.

10. (Amended) The endoluminal device of claim 7, wherein the device is unitary.

11. (Amended) The endoluminal device of claim 7 wherein the device has a fully expanded configuration and a compressed configuration and the distal end portion third diameter is constrained from reaching the fully expanded configuration by the branch lumen inner surface and the second diameters of the two tubular limbs are sufficiently small to allow both tubular limbs to be deployed side-by-side in their fully expanded configuration within the first lumen restricted section without being constrained by the restricted section inner surface.

13. (Amended) An endoluminal device for deployment within a first lumen having a restricted section with a diameter and a bifurcation into branch lumen, the device comprising:

a proximal main tubular portion to be retained within a proximal portion of the first lumen; and

a first and a second tubular limb depending from said proximal main tubular portion;

wherein each of said first and second tubular limbs comprises: (i) an elongated portion for extending across the restricted section and having a first diameter which is less than one-half of the restricted diameter; (ii) a distal end portion to be located inside an associated branch lumen and to be held against an inner surface of the branch lumen, the distal end portion defining a second diameter larger than the first diameter and greater than one-half of the restricted diameter; and (iii) a concave transition portion extending between the elongated portion and the distal end portion.